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14 INTERNATIONAL INC.; LENNOX INDUSTRIES
15 INC.

16 UNITED STATES DISTRICT COURT
17
18 NORTHERN DISTRICT OF CALIFORNIA

19 KIRK KEILHOLTZ and KOLLEEN
20 KEILHOLTZ for themselves and on behalf
21 of those similarly situated,

22 Plaintiffs,

23 v.

24 LENNOX HEARTH PRODUCTS INC.;
25 LENNOX INTERNATIONAL INC.;
26 LENNOX INDUSTRIES; and DOES 1
27 through 25, Inclusive,

28 Defendants.

Case No. 4:08-cv-00836-CW (JCS)

**STIPULATION AND ORDER
REGARDING REQUEST FOR
SHORTENED TIME RELATING TO
DEFENDANTS' MOTION TO AMEND
CASE MANAGEMENT ORDER**

Original Complaint Filed: February 6, 2008

TO THE COURT AND ALL ATTORNEYS OF RECORD:

By and through their counsel of record, Plaintiffs Kirk Keilholtz and Kolleen Keilholtz (collectively "Plaintiffs"), and Defendants Lennox Hearth Products Inc., Lennox International Inc., and Lennox Industries Inc. (collectively "Defendants") (Plaintiffs and Defendants collectively referred to as the "Parties") hereby stipulate, in furtherance of Defendants' request, to the following:

1. Pursuant to the Court's May 21, 2009, Minute Order and Case Management Order, expert disclosures are due March 31, 2010, and rebuttal expert disclosures are due April 30, 2010.

1 2. Defendants believe that an extension of these expert disclosure deadlines is needed in
2 order to avoid incurring expenses associated therewith, as certain expert discovery may be
3 mooted by the Court's order on Plaintiffs' Motion for Class Certification, which the Court took
4 under submission on December 7, 2009. While plaintiffs do not disagree that a brief delay will
5 facilitate the parties' ability to provide complete and thorough expert disclosures and reports,
6 plaintiffs believe that this purpose will be best served if the Case Management Order is also
7 modified to lift the present stay on merits discovery. Defendants do not believe the stay on merits
8 discovery should be lifted.

9 3. The Parties have been unable to reach an agreement regarding the nature and scope of
10 such an extension but have agreed to a shortened schedule regarding the filing, briefing, and
11 hearing of Defendants' Motion to Amend Case Management Order.

12 4. The Parties hereby stipulate to, and respectfully request that the court approve, the
13 following shortened schedule regarding Defendants' Motion to Amend Case Management Order:

- 14 a. Defendants will file and serve their Motion to Amend Case Management Order
15 on or before Thursday, February 11, 2010.
- 16 b. Plaintiffs will file and serve any opposition papers at or before 5 p.m. on
17 Wednesday, February 17, 2010.
- 18 c. Defendants will file and serve reply briefing on or before Friday, February 19,
19 2010.
- 20 d. If the Court requires a hearing, the Parties are available for a hearing on
21 February 22, 24, or 25, 2010, or as otherwise set by the Court. \

22 **IT IS HEREBY STIPULATED:**

23 DATED: February 10, 2010

DOWNEY BRAND LLP

25 By: /s/ Michael J. Thomas

26 MICHAEL J. THOMAS
27 Attorney for Defendants
28 LENNOX HEARTH PRODUCTS INC.
LENNOX INTERNATIONAL INC.
LENNOX INDUSTRIES INC.

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2 DATED: February 10, 2010

ARNOLD LAW FIRM

3
4 By: /s/ Kirk J. Wolden (as authorized on 2-10-10)

KIRK J. WOLDEN

Attorney for Plaintiffs

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6 KIRK and KOLLEEN KEILHOLTZ for themselves
and on behalf of those similarly situated

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8 **PURSUANT TO STIPULATION, IT IS SO ORDERED:**

9 The court, having considered the Stipulation of the parties and good cause appearing,
10 hereby orders the shortened time regarding the briefing regarding Defendants' Motion to Amend
11 Scheduling Order: (1) Defendants will file and serve their Motion to Amend Case Management
12 Order on or before Thursday, February 11, 2010; (2) Plaintiffs will file and serve any opposition
13 papers to the Motion to Amend Case Management Order at or before 5 p.m. on Wednesday,
14 February 17, 2010; (3) Defendants will file and serve reply briefing in support of their Motion to
15 Amend Case Management Order on or before Friday, February 19, 2010; (4) **the motion will be**
16 **decided on the papers.**

17 Dated: 2/11/10

18 By: 

HONORABLE CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE,
NORTHERN DISTRICT OF CALIFORNIA